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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/691,792  
Filing Date: October 18, 2000  
Appellant(s): KAMEN ET AL.

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Kamen et al  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed November 25, 2009 appealing from the Office action mailed June 19, 2009.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,798,785	HENDRICKS ET AL	8-1998
5,793,368	BEER	8-1998

6,281,898

NIKOLOVSKA ET AL

8-2001

### **(9) Grounds of Rejection**

The following grounds of rejection are applicable to the appealed claims:

Claims 10-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (5,798,785, of record) [Hendricks] in view of Beer (5,793,368, of record).

Regarding claims 10, 12, 14, and 18, Hendricks discloses an apparatus comprising:

a processor (in set top 220);

memory (also in set top 220) configured to store computer readable instructions that, when executed by the processor, cause the processor to perform a method comprising receiving electronic programming guide data from a broadcast source (menu information, col. 9 line 49 - col. 10 line 24 and col. 12, lines 54-63); and

temporarily changing an object within the electronic programming guide without modifying the layout of the electronic programming guide (cursor highlighting of menu items is a temporary change to an object within a programming guide, col. 4, lines 45-59).

Hendricks fails to disclose receiving a user request to modify an electronic programming guide configured to display the electronic programming guide data.

In an analogous art, Beer teaches a method for allowing users to input requests to change the display characteristics of a user interface (col. 3, lines 16-

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67), providing the benefit of allowing users to select from a variety of different styles to suit their personal taste (col. 3, lines 23-25).

It would have been obvious at the time to a person of ordinary skill in the art to modify the apparatus of Hendricks to include receiving a user request to modify a user interface [electronic programming guide configured to display the electronic programming guide data], as taught by Beer, for the benefit of allowing users to select from a variety of different styles to suit their personal taste.

Thus combined, the combination of Hendricks and Beer discloses receiving, from the broadcast source, one or more presentation criteria for making the user requested modification (Hendricks teaches receiving menu formats, templates, graphics, and backgrounds, col. 29, lines 19-38, wherein presentation criteria representing the types of changes a user is allowed to make to the interface); determining whether at least one of the presentation criteria corresponds to the user request (user requests for presentation criteria are a request for a particular visual style or characteristic, Beer, col. 3, lines 16-67); and in response to determining that the one of the presentation criteria corresponds to the user request, modifying the electronic programming guide using the presentation criteria to display an electronic programming guide in accordance with the user request (said changing of the user interface, as taught by Beer, wherein said interface is a program guide, as taught by Hendricks).

Regarding claims 11, 15, and 19, Hendricks and Beer disclose the method, computer readable media, and apparatus of claims 10, 14, and 18, wherein the modification requested includes a selection of a predefined display layout from a database storing a plurality of display layouts (Beer, col. 3, lines 50-67, wherein there are several UIL user interface descriptions to choose from, col. 3, lines 23-25).

Regarding claim 13, Hendricks and Beer disclose the method of claim 10, but fail to disclose the electronic programming guide comprises a three-dimensionally arranged set of surfaces textured by pre-processed broadcast program scheduling data.

Examiner takes official notice that the use of electronic programming guides comprised of a three-dimensionally arranged set of surfaces textured by pre-processed broadcast program scheduling data are notoriously well known in the art, as evidenced by the previously cited U.S. Patent No. 6,281,898 to Nikolovska, which provide the benefit of a more visually appealing user interface.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Hendricks and Beer to include the electronic programming guide comprises a three-dimensionally arranged set of surfaces textured by pre-processed broadcast program scheduling data, providing the benefit of a more visually appealing user interface.

Regarding claims 16, 20, and 22, Hendricks and Beer disclose the computer readable medium and apparatus of claims 14 and 18, wherein the user request includes a change in a position of a portion of the electronic program guide (Beer teaches users adjust the positioning of individual aspects the user interface, the 'widgets', col. 6, lines 44-57).

Regarding claims 17 and 21, Hendricks and Beer disclose the receiving a user request includes detection of a gesture (pressing a button on a remote control to generate user input which will be interpreted and acted upon by the set top box, Hendricks, col. 10 line 64 - col. 11 line 12, according to the instructions downloaded from the broadcaster, Hendricks, col. 27, lines 25-44).

#### **(10) Response to Argument**

**1. The cited references fail to teach or suggest all of the features of independent claims 10, 14, and 18.**

First, appellant argues that the claim limitations of "receiving, at the broadcast receiving device, a user request to modify an electronic programming guide" and "receiving, at the broadcast receiving device, one or more presentation criteria for making the user requested modification from the broadcast source" were not met by the proposed combination, citing that the examiner instead addressed "user requests for presentation criteria," which was not expressly claimed.

In response, the claim limitation of "receiving, at the broadcast receiving device, a user request to modify an electronic programming guide," is taught by Beer, who discloses a method for allowing users to input requests to change the display characteristics of a user interface (Beer, col. 3, lines 16-67), wherein the user interface is an electronic program guide as taught by Hendricks. The claim limitation of "receiving, at the broadcast receiving device, one or more presentation criteria for making the user requested modification from the broadcast source" is disclosed by Hendricks, who teaches receiving menu formats, templates, graphics, and backgrounds (col. 29, lines 19-38), wherein presentation criteria represent the types of changes a user is allowed to make to the interface.

Notably, the examiner defined what constitutes a presentation criteria as the term is used in the claims when applying the prior art (for example, if a user wishes to select a green background, then one of the presentation criteria for background color is whether the user selects "green", said green background being downloaded from the broadcast source, thus the presentation criteria is downloaded from the broadcast source). Further, the examiner also clarified in the Final Rejection mailed on June 19, 2009 that the presentation criteria, as used in the claims, referred back to the 'presentation solutions' described in the specification (page 12 line 14 - page 13 line 19). Accordingly, the user selecting a particular presentation solution (such as a green background) is a situation where the presentation criteria (whether a user selects the green background) match the user selection.



Next, appellant argues that nowhere in Beer does it disclose that said determining step occurs at the broadcast receiving device.

In response, Beer discloses that the PGUI (programmable graphical user interface) that the user interacts with is resident on the user's computer system (Beer, col. 3, lines 50-55). The only information remotely accessed is a preliminary download of the initial user interface settings and the toolset for making further changes (download of the UIL user interface description, see Beer, col. 5, lines 50-67). Thus, changes to the interface are handled by the user's own computer system (the broadcast receiving device) since the PGUI is a resident program with the toolset for making changes thereon also having been downloaded to the user's computer.

**2. Dependent Claims 11-13, 15-17, and 19-22**

Here, appellant relies upon the validity of the arguments presented against the rejections of claims 10, 14, and 18, no further arguments are presented.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Dominic D Saltarelli/  
Primary Examiner, Art Unit 2421

Art Unit: 2421

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/John W. Miller/

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